

For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. 86 Ill Adm. Code 270.115(g)(1). (This is a GIL).

January 2, 2002

Dear Xxxxx:

This letter is in response to your letter dated October 26, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

The AAA do from time to time encounter questions as to the jurisdiction entitled to the 1.25% local portion of the total 6.25% ROT, as well as optional ROT enacted by certain local jurisdictions. Accordingly, the AAA requests your guidance on this subject based on the following hypothetical facts and circumstances.

A surface coal mine has multiple surface pits located in two counties. The coal is removed from pits in both counties and hauled to the processing plant, which is located in only one of the two counties. The processing plant crushes, sizes and perhaps washes and/or blends the coal. It is then conveyed into a silo or other finished product storage pile or facility. The coal in question is in marketable condition only after it is processed through the plant. The coal is then loaded into trucks or rail cars and sold fob at the outlet of the load-out facility adjacent to the processing plant.

Basically, we have three questions, which are:

1. Given the fact that the coal is not marketable until processed, which county is entitled to the 1.25% portion of the total 6.25% total rate?
2. Additionally, which county is entitled to any additional local option tax, under the same processing and marketability circumstances?
3. Would the answer to questions 1 and/or 2 change if the coal is marketable when extracted in the county where the pit is located, rather than in the county where the coal is processed?

Please advise us as to your interpretation of the applicability of the local portions of the Illinois ROT. We would be glad to meet with you to discuss this matter, if you would prefer. Your assistance is appreciated, as always.

When determining what locality's local taxes are to be collected when coal is sold, the Department's regulation, 86 Ill. Adm. Code 270.115, Jurisdictional Questions, is helpful. Subsection (g) of this regulation specifically applies to sales of coal or other minerals. 86 Ill Adm. Code 270.115(g)(1) states as follows:

"For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, **"extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.** (Emphasis added.)

The regulation defines retail sale as a sale to a user, such as a railroad, public utility or other industrial company for use. Please note that a taxable sale is the final sale to the user. Therefore, a sale by a mineral producer to a wholesaler or retailer for resale is not a retail sale and no tax is due.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.